



BAY AREA

AIR QUALITY

MANAGEMENT

DISTRICT

Request for Comments

August 20, 2018

TO: INTERESTED PARTIES
FROM: EXECUTIVE OFFICER / APCO
SUBJECT: **Request for Comments – Amendments to Refinery Rules: Regulation 6, Particulate Matter, Rule 5: Particulate Emissions from Refinery Fluid Catalytic Cracking Units; Regulation 11, Hazardous Pollutants, Rule 10: Hexavalent Chromium Emissions from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers; and Regulation 12, Miscellaneous Standards of Performance, Rule 15: Petroleum Refinery Emissions Tracking**

The staff of the Bay Area Air Quality Management District is requesting comments on draft amendments, an accompanying initial staff report, and socioeconomic analyses regarding a package of three regulations being referred to as Refinery Rules. The rule amendments address Regulation 6, Rule 5: Particulate Emissions from Refinery Fluid Catalytic Cracking Units; Regulation 11, Rule 10: Hexavalent Chromium Emissions from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers; and Regulation 12, Rule 15: Petroleum Refining Emissions Tracking.

BACKGROUND

Amendments to Rule 6-5 and Rule 11-10

The Bay Area Air Quality Management District (Air District) is developing draft amendments to two of three rules that were adopted by the Air District Board of Directors on December 16, 2015. These rules were challenged by three of the five Bay Area refineries in a lawsuit that was filed on January 22, 2016 and then amended on February 16, 2016: *Valero, et al. v. Bay Area Air Quality Management District*, case number N16-0095. On March 24, 2017, the parties to the lawsuit entered an enforcement agreement and agreement to stay litigation for all three of these regulations (referred to in the Initial Staff Report as the “Valero Case Agreement”). Terms of the Agreement affect implementation of Regulation 6, Rule 5: Particulate Emissions from Refinery Fluidized Catalytic Cracking Units (Rule 6-5); Regulation 8, Rule 18: Equipment Leaks (Rule 8-18); and Regulation 11, Rule 10: Hexavalent Chromium Emissions from All Cooling Towers and Total Hydrocarbon Emissions from Petroleum Refinery Cooling Towers (Rule 11-10). The Initial Staff Report will sometimes use the phrase “2016 Refinery Rules” when referring to these three rules collectively. Specifically, the Air District staff committed in the Valero Case Agreement to implement the three rules (that were challenged) for a limited period of time, in a manner consistent with how the rules would be proposed to be changed. The intent of this provision was that the refineries should not have to implement,

in the near-term, provisions that are different than those contemplated in the Agreement. Implementation is currently underway according to the agreement. If Rules 6-5 and Rule 11-10 are not codified as contemplated in the Valero Case Agreement and these proposed amendments, the refineries will have to implement the rules as originally adopted in 2016. In that scenario, the refineries could reactivate their lawsuit and move forward with their legal challenge to the rules.

The Agreement states the Air District will propose amendments to the 2016 Refinery Rules, for adoption by the Air District Board of Directors, by November 1, 2018. This Initial Staff Report describes the draft amendments to Rule 6-5 and to Rule 11-10, and provides the background information and rationale for the draft amendments. Draft amendments to Rule 8-18 are not being presented at this time, and will be delayed until a Refinery Heavy Liquids Fugitive Leaks study can be completed at all five Bay Area refineries. This study is underway and findings are expected to be finalized in late 2018. Information from the study will be used to determine appropriate amendments for Rule 8-18, expected in Spring 2019.

Amendments to Rule 12-15

In addition, the Air District is developing draft amendments to Regulation 12, Rule 15: Petroleum Refining Emissions Tracking (Rule 12-15), adopted by the Air District Board of Directors on April 20, 2016. Rule 12-15 was challenged in a lawsuit that was filed by the Western States Petroleum Association (“WSPA”) and three of the refineries on May 25, 2016: *WSPA, et al. v. Bay Area Air Quality Management District*, case number N16-0963. Like the Valero Case Agreement, parties to the lawsuit have entered an agreement to stay the WSPA case litigation contingent on the Air District proposing specified amendments to Rule 12-15 (but not Rule 9-14). This agreement, entered into as of March 1, 2018, will be referred to in this Initial Staff Report as the “WSPA Case Agreement.” Similar to the Valero Case Agreement, in the WSPA Case Agreement the Air District committed to implement Rule 12-15 for a limited period of time in a manner consistent with how Rule 12-15 would be changed as contemplated in the Agreement. The intent of this provision was that the refineries should not have to implement, in the near-term, provisions that are different than those contemplated in the Agreement. Implementation is currently underway according to the agreement. If Rule 12-15 is not changed as contemplated in the Agreement, the refineries will have to implement Rule 12-15 as originally adopted. In that scenario, the refineries could reactivate their lawsuit and move forward with their legal challenge to Rule 12-15.

DRAFT PROPOSALS

The draft amendments to Rule 6-5 include revisions to

- Clarify exemptions and rule provisions.

The draft amendments to Rule 11-10 include revisions to

- Modify and clarify limited exemptions for smaller cooling towers;
- Clarify a limited exemption for cooling towers not in petroleum refining service;
- Modify and clarify leak monitoring, action, and reporting requirements; and
- Remove Best Modern Practices requirements and associated reporting requirements.

The draft amendments to Rule 12-15 include revisions to

- Modify and clarify rule definitions and applicability;
- Clarify the annual Emissions Inventory review and approval process;
- Modify and clarify fence-line monitoring plan requirements, and review and approval process;
- Modify the process for updating Emissions Inventory Guidelines and Air Monitoring Guidelines;
- Modify the monthly crude slate report requirements; and
- Modify provisions for designating confidential information.

The Air District is publishing the full mark-up text of draft amendments for Rule 6-5, Rule 11-10, and Rule 12-15, and an Initial Staff Report. Socioeconomic analyses from the previous rule adoptions are provided. In addition, in anticipation of producing an Environmental Impact Report to satisfy CEQA requirements, the Air District has published a Notice of Preparation / Initial Study (NOP/IS) for the package of three refinery rules.

INFORMATION AND COMMENTS

A Request for Comments is the next step in the District's public engagement process. Staff requests comments and questions about the draft amendments to each rule, the Initial Staff Report, the socioeconomic analyses, and the NOP/IS (if any questions remain after the Scoping Meeting on Monday, August 20, 2018). Staff is also available to meet with interested parties regarding the proposal and NOP/IS. Following this Request for Comments and close of the public comment period, staff will assess the need for changes to the rule amendments. Staff may consider hosting further meetings or may proceed to a public hearing before the District's Board of Directors.

For copies of the draft amendments to Rule 6-5, Rule 11-10, and Rule 12-15, the Initial Staff Report, and/or the NOP/IS, please visit our website at www.baaqmd.gov/ruledev or submit a request to Guy Gimlen. For questions or comments on the regulatory proposal and NOP/IS, please contact Guy Gimlen at (415) 749-4734 or ggimlen@baaqmd.gov. Interested parties are invited to submit comments on any of the draft rule amendments, initial staff report and/or NOP/IS. The deadline to submit comments on this proposal is Friday, September 21, 2018 at 5:00 p.m.